

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1830 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

S. VIJAYAN

Versus

KRISHAK BHARATI COOP LTD

Appearance:

MR SN SOPARKAR for Petitioner

MR KS NANAVATI for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 30/08/96

ORAL JUDGEMENT

Heard learned Advocates for the parties. The petitioner was at the relevant time serving under the respondent Society. Respondent Society under order dated 21st December 1985 transferred the petitioner to the Central Record Section. The petitioner did not report for duty pursuant to the said order of transfer till 1st March 1986. On 1st March 1986 notice was issued to her

to report for duty. However, inspite of the said notice petitioner did not report for duty. Respondent, therefore, by order dated 24-3-86 directed that the petitioner shall not be paid salary for the month of March 1986 and onwards on the principle of 'no-work-no-wages' and under the provisions contained in Clause 29.40 of Service Rules for the employees of KRIBHCO. It is this decision not to pay the salary to the petitioner for the month of March 1986 and onwards which is the subject matter of challenge in this petition.

Learned Advocate Mr.K.S.Nanavati appearing for the respondents has relied upon the judgment of this court rendered in Special Civil Application Nos.259 and 260 of 1994 on 13th June, 1994. Under the said judgment it is held that, "the KRIBHCO cannot be said to be a 'State' , other authority or instrument or instrumentality of the State within the meaning of Article 12 of the Constitution of India". In view of the above decision, the petition under Article 226 of the Constitution of India against KRIBHO is not maintainable.

Present petition is, therefore, dismissed. Rule is discharged. The parties shall bear their own costs.
